

# Development Consent

## **Section 4.38 of the Environmental Planning and Assessment Act 1979**

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979* approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development



Chris Wilson  
Member of the Commission



Soo-Tee Cheong  
Member of the Commission

Sydney

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File: EF19/4600

### **SCHEDULE 1**

<b>Application Number:</b>	SSD 7693
<b>Applicant:</b>	Mulpha Australia Ltd
<b>Consent Authority:</b>	The Independent Planning Commission
<b>Site:</b>	115-119 Macquarie Street and 99-113 Macquarie Street, Sydney (Lot 3 DP 785393, Lot 40 DP 41315 and Lot 4 DP 785393)
<b>Development:</b>	InterContinental Hotel Concept development application (Stage 1) to establish building envelopes to facilitate internal and external alterations and additions.

## DEFINITIONS

<b>Advisory Notes</b>	Advisory information relating to the consent but do not form a part of this consent
<b>Amended Concept</b>	The amendments to the Application submitted to the Independent Planning Commission by Mulpha Australia Ltd and dated on 19 December 2019, including amended concept development application drawings prepared by Woods Bagot dated 17 December 2019
<b>Applicant</b>	Mulpha Australia Ltd, or any person carrying out any development to which this consent applies.
<b>Application</b>	The development application and the accompanying drawings plans and documentation described in Condition A4.
<b>Certifying Authority</b>	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
<b>Council</b>	City of Sydney Council
<b>Department</b>	NSW Department of Planning, Industry and Environment
<b>Development</b>	The development described in the EIS, RtS, RRtS and the Amended Concept and subsequent amendments as modified by the conditions of this consent.
<b>Environmental Impact Statement</b>	The Environmental Impact Statement titled <i>Environmental Impact Statement State Significant Development Staged Development Application Department of Planning and Environment Reference: SSD 7693</i> prepared by BBC Consulting Planners, dated August 2017, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>Future Development Application(s)</b>	Subsequent development application(s) for detailed proposal(s) pursuant to this consent in accordance with the EP&A Act
<b>Heritage Division</b>	Heritage Division of the Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage)
<b>IC Hotel</b>	The Intercontinental Hotel at 115-119 Macquarie Street
<b>IC Hotel podium</b>	The podium component of the IC Hotel
<b>IC Hotel tower</b>	The tower component of the IC Hotel
<b>Macquarie Lane</b>	A pedestrianised no-through lane that separates the Treasury Buildings and the eastern half (Macquarie Street wing) of Transport House
<b>Minister</b>	Minister for Planning and Public Spaces (or delegate)
<b>Modification Assessment</b>	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with any modification applications made under the EP&A Act
<b>NCC</b>	National Construction Code
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>Planning Secretary's approval, agreement or satisfaction</b>	A written approval from the Planning Secretary (or nominee/delegate). Where the Planning Secretary's approval, agreement or satisfaction is required under a condition of this consent, the Planning Secretary will endeavour to provide a response within one month of receiving an approval, agreement or satisfaction request. The Planning Secretary may ask for additional information if the approval, agreement or satisfaction request is considered incomplete. When further information is requested, the time taken for the Applicant to respond in writing will be added to the one month period.

<b>Reasonable</b>	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
<b>Response to submissions</b>	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
<b>Response to Submissions (RtS)</b>	Response to Submissions titled <i>Response to Submissions Staged Development Application Department of Planning and Environment Reference: SSD 7693</i> prepared by BBC Consulting Planners, dated May 2018
<b>Response to Submissions Addendum (RRtS)</b>	Response to Submissions Addendum titled <i>Addendum to Response to Request for additional information</i> prepared by BBC Consulting Planners, dated 1 March 2019
<b>Sensitive receiver</b>	Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church) and children's day care facility
<b>Subject Site</b>	115-119 Macquarie Street and 99-113 Macquarie Street, Sydney (Lot 3 DP 785393, Lot 40 DP 41315 and Lot 4 DP 785393)
<b>TfNSW</b>	Transport for NSW
<b>Treasury Buildings</b>	The former NSW Treasury Building, including the original Treasury Building, the northern wing extension (Strong Room and Link Building), the western wing extension, a covered internal courtyard (cortile)
<b>Transport House</b>	Transport House at 99-113 Macquarie Street
<b>Transport House Building Envelope</b>	The building envelope located above Transport House, extending over part of Macquarie Lane and the western parapet of the Treasury Buildings Strong Room and rooftop addition on the IC Hotel podium immediately east of the existing IC hotel tower between the cortile roof and western façade of the Treasury Buildings Strong Room.

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

#### DETERMINATION OF FUTURE DEVELOPMENT APPLICATIONS

- A2. In accordance with section 4.22(1) of the EP&A Act all development under the concept development application is to be the subject of a subsequent development application(s).
- A3. The determination of a future development application(s) are to be consistent with the terms of development consent SSD 7693 as described in Schedule 1 and subject to the conditions in Part A, Part B and Part C, Schedule 2.

#### TERMS OF CONSENT

- A4. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
  - (b) in accordance with all written directions of the Planning Secretary;
  - (c) in accordance with the EIS, RtS, RRtS and Amended Concept;
  - (d) in accordance with the approved plans in the table below, except as amended by the conditions of this consent:

<b>Architectural (or Design) Drawings prepared by Woods Bagot</b>			
<b>Dwg No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
ST1-DA_001	D	SITE PLAN	17/12/2019
ST1-DA_208	C	LEVEL 08/08A – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_208A	C	LEVEL 08/08A – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_209	C	LEVEL 09 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_210	C	LEVEL 10 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_211	C	LEVEL 11 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_212	C	LEVEL 12 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_213	C	LEVEL 13 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_214	C	LEVEL 14-17 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_218	C	LEVEL 18-20 – PLANT ROOM FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_221	C	LEVEL 21-28 – TYPICAL TOWER FLOOR PLAN FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_229	C	LEVEL 29 – TOWER FLOOR PLAN FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_230	C	LEVEL 30 – TOWER FLOOR PLAN FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_231	C	LEVEL 31 – TOWER FLOOR PLAN FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019
ST1-DA_232	C	LEVEL 32 – EXTENDED CLUB FLOOR FLOOR PLAN SHOWING NEW ELEMENTS	17/12/2019

ST1-DA_233	B	ROOF PLAN	17/12/2019
ST1-DA_301	A	PROPOSED ENVELOPE ELEVATION 1	17/12/2019
ST1-DA_302	A	PROPOSED ENVELOPE ELEVATION 2	17/12/2019
ST1-DA_303	A	PROPOSED BALLROOM BUILDING ENVELOPE SECTION	16/01/2020
ST1-DA_502	E	PROPOSED ENVELOPE	17/12/2019
ST1-DA_503	E	PROPOSED ENVELOPE	17/12/2019

A5. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:

- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
- (b) the implementation of any actions or measures contained in any such document referred to in (a) above.

The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition or in the event of an inconsistency, ambiguity or conflict between any of the documents listed in Schedule 2, condition A4, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

*Note: For the purposes of this condition, there will be an inconsistency between documents if it is not possible to comply with both documents, or in the case of a condition of consent or direction of the Planning Secretary, and a document, if it is not possible to comply with both the condition or direction, and the document.*

#### **INCONSISTENCY BETWEEN DOCUMENTS**

A6. If there is any inconsistency between the plans and documentation referred to above the most recent document must prevail to the extent of the inconsistency. However, conditions of this consent prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

#### **LAPSING OF APPROVAL**

A7. This consent will lapse five years after the date of consent unless a development application has been approved and works have physically commenced.

#### **MATTERS NOT APPROVED**

- A8. The following matters are not approved and do not form part of this consent.
- internal works not within State Heritage listed areas of the site
  - any demolition
  - any excavation
  - any construction.

#### **LEGAL NOTICES**

A9. Any advice or notice to the consent authority is to be served on the Planning Secretary.

#### **BUILDING ENVELOPES**

A10. The Transport House Building Envelope must have the following setbacks consistent with the approved plans in the table identified in Condition A4(d) and as amended by Condition B5:

- a) a 20 m setback from Macquarie Street
- b) a 8.5 m setback from Phillip Street.

A11. Note refer to Conditions B2-B5 and C1, C1A and C2 in respect to building envelopes, amendments to building envelopes, built form and design quality and design excellence.

**END OF PART A**

## **PART B CONDITIONS TO BE SATISFIED PRIOR TO LODGEMENT OF FUTURE DEVELOPMENT APPLICATIONS**

### **PLANNING SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

- B1. Prior to the lodgement of future development applications related to this consent, the Applicant must seek Planning Secretary's Environmental Assessment Requirements (SEARs).

### **DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS**

- B2. Prior to the lodgement of the first development application relating to the Transport House building envelope and/or associated works, a competitive design process must be undertaken in accordance with the provisions of Sydney Local Environmental Plan 2012 and the City of Sydney Competitive Design Policy.
- B3. The competitive design process is to be undertaken in accordance with a Design Excellence Strategy prepared in consultation with the Government Architect NSW. The Design Excellence Strategy must have regard to Condition C1 Built form and design quality, C1A Transport House Cantilever Over Macquarie Lane and Condition C2 Design Excellence, Conditions C3-C5 Heritage, Conditions C6-C8 Structural Design and other relevant conditions in Part C of this consent.
- B4. The detailed design of the development must exhibit design excellence, as per clause 6.21 of Sydney Local Environmental Plan 2012.

### **AMENDMENTS TO THE CONCEPT PROPOSAL DRAWINGS**

- B5. Prior to the lodgement of the first development application, revised concept proposal drawings shall be submitted to, and approved by, the Planning Secretary that provide for an amended Transport House building envelope that is located solely above the roof of Transport House (except where it connects to the IC Hotel tower northern facade). In this regard the revised concept drawings shall include the following amendments:
- a) deletion of the ballroom lobby/access component of the Transport House building envelope that is located above the IC Hotel podium and between the IC Hotel tower eastern façade and rear of the Treasury Buildings Strong Room
  - b) deletion of the component of the Transport House building envelope that cantilevers over Macquarie Lane, the IC Hotel podium and Treasury Buildings.

Notwithstanding condition B5(b) above, the Transport House building envelope may be permitted to cantilever over Macquarie Lane as part of future development application(s) where the requirements of Condition C1A have been met.

**END OF PART B**

## **PART C PART C CONDITIONS TO BE SATISFIED IN FUTURE DEVELOPMENT APPLICATIONS**

### **BUILT FORM AND DESIGN QUALITY**

- C1. The future development application(s) must ensure that the development achieves a high-quality design and:
- a) reduces the bulk and scale of the rooftop addition (Transport House Building Envelope) and minimises visual and heritage impacts
  - b) maintains the visual prominence of the existing heritage buildings on the site and Macquarie Street streetscape, and the legibility of their composition, architectural style, form and features
  - c) the architectural expression of the rooftop additions must present as a contemporary and complementary projection of the existing building and be visually subservient to the existing heritage buildings and streetscape
  - d) the materials and composition of the facades are to respect and be submissive to the heritage sandstone facades
  - e) street activation strategies need to minimise physical and visual impacts
  - f) new balustrades within the Cortile arcade spaces should be designed to be reversible
  - g) changes to the Strong Room should be minimised
  - h) any proposed awning/canopy within Macquarie Lane and/or at the corner of Phillip and Bridge Streets shall:
    - i) demonstrate that it does not have an unacceptable visual or heritage impacts
    - ii) avoid additional structure attached to heritage listed buildings;
    - iii) avoid drainage of the canopy towards heritage facades and associated potential overflow onto the heritage facades
    - iv) avoid fixings, chasings and insertions into the facades of heritage items
    - v) demonstrate that any awning/canopy within the existing Macquarie Lane is recessive in scale
    - vi) minimise impacts on existing street trees.
  - i) includes a view analysis supported by artist's perspectives and photomontages
  - j) considers the impacts of any overshadowing
  - k) a qualified and experienced heritage consultant shall be engaged to provide input into the detailed design resolution to minimise impacts to heritage values and to ensure the detailed design is consistent with the endorsed Conservation Management Plan policies and guidelines.

### **TRANSPORT HOUSE CANTILEVER OVER MACQUARIE LANE**

- C1A. The cantilevering of the Transport House building envelope over Macquarie Lane is only permitted as part of Future Development Application(s) when the following three conditions are met:
- a) a competitive design process has been undertaken in accordance with Conditions B2 to B4 and the development has been demonstrated to exhibit design excellence;
  - b) it has been demonstrated that the cantilevering of a Transport House roof extension over Macquarie Lane (that meets the requirements of Condition C1A above) would not have adverse visual or heritage impacts and is consistent with the CMP endorsed by the NSW Heritage Council (Condition C3); and
  - c) no part of a Transport House roof extension shall be located over/above any part of the Treasury Buildings or the IC Hotel podium.

Note: Condition C1A does not permit the cantilevering of a Transport House roof addition over any part of the IC Hotel podium or the Treasury Buildings.

### **DESIGN EXCELLENCE**

- C2. The future development application(s) must demonstrate design excellence having regard to the following matters
- a) a high standard of architectural design, materials and detailing appropriate to the building type and location
  - b) the form and external appearance of the proposed development to improve the quality and amenity of the public domain
  - c) how the proposed development addresses
    - i) any heritage and archaeological issues and streetscape constraints or opportunities

- ii) an increased appreciation and integration of heritage values of the site into the design and operation of the development
- iii) the bulk, massing and modulation of the building within the approved envelope including street frontage heights
- iv) environmental impacts such as acoustic privacy, solar access to buildings and public spaces, noise, wind impacts on surrounding areas and reflectivity
- v) the achievements of ecologically sustainable development
- vi) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network
- vii) the impact on, and any proposed improvements to the public domain
- viii) achieving appropriate interfaces at ground level between the building and the public domain
- ix) innovation in design and delivery

## **HERITAGE**

- C3. The future development application(s) must comply with the Conservation Management Plans (CMPs) for the former NSW Treasury Building endorsed by the NSW Heritage Council and for Transport House endorsed by the City of Sydney. Future development applications must not be lodged until the CMPs have been endorsed.
- C4. The future development application must include a Heritage Impact Assessment, including a schedule of conservation and restoration works to significant spaces and elements of both heritage buildings on the site and a Heritage Interpretation Strategy for the proposed works.
- C5. In order to eliminate or minimise the Transport House roof addition's impact on significant heritage internal fabric and space, the addition must not introduce new bracing structure or unsympathetically alter existing structure and fabric to achieve seismic resistance compliance.
- C6. Prior to the lodgement of the future development application, the Applicant shall consult with the City of Sydney Council and Heritage Division to ensure the proposal is appropriately designed to minimise heritage and visual/streetscape impacts.

## **STRUCTURAL DESIGN**

- C7. The future development application for new built form must include a detailed structural design report prepared by a Structural Engineer with experience in heritage buildings documenting investigations into the condition and structural performance of the former NSW Treasury building and Transport House to determine the most efficient structural solution to achieving seismic performance, which minimises invasive construction works and impact on the heritage significance of both buildings.
- C8. The structural design report must include details of all construction and building works associated with the preferred solution, and a detailed strategy for structural, fire safety and building services upgrades and the alternatives considered and initiatives applied to minimise disturbance to the historic fabric both internally and externally to both heritage buildings.
- C9. The structural design report shall be accompanied by a detailed Heritage Impact Assessment prepared by a suitably qualified heritage consultant (see condition C3) in consultation with the NSW Heritage Council and Council.

## **INTERNAL WORKS**

- C10. Detailed guidelines for necessary upgrades to comply with the National Construction Code shall be developed in consultation with the NSW Heritage Council prior to the detailed design of the new built form for internal works to heritage areas.

## **ENVIRONMENTAL PERFORMANCE**

- C11. Future development application(s) must demonstrate the incorporation of Ecological Sustainable Development principles in the design, construction and ongoing operation phases of the development in accordance with the ESD report prepared by Energy Action dated 24 October 2016.

## **TRAFFIC AND TRANSPORT**

- C12. Future development application(s) shall provide bicycle access and servicing in accordance with Sydney Development Control Plan 2012.
- C13. Future development application(s) shall include a Loading Management Plan prepared in consultation with the Sydney Coordination Office within TfNSW to manage loading and servicing that will detail servicing requirements including:



- a) forecast freight and servicing traffic volumes by time of day
  - b) management of competing demands between the function space and hotel
  - c) management of incidents at the access to the loading dock.
- C14. Future development application(s) shall include a draft porte-cochere management plan prepared in consultation with the Sydney Coordination Office within TfNSW to manage vehicles accessing the hotel (both hotel and function guests) to ensure that queuing does not occur to Phillip Street that will detail:
- a) forecast traffic volumes accessing the porte-cochere by time of day
  - b) the details on how the area within the porte-cochere will be used to accommodate the forecast demand.

#### **CONSTRUCTION IMPACTS**

- C15. Future development application(s) shall provide analysis and assessment of the impacts of construction and include:
- a) a Construction Transport Management Plan, addressing traffic and transport impacts during construction
  - b) cumulative Construction Impact Assessment (i.e. arising from concurrent construction activity)
  - c) a Noise and Vibration Impact Assessment, addressing noise and vibration impacts during construction
  - d) a Community Consultation and Engagement Plan, addressing complaints during construction
  - e) a Construction Waste Management Plan, addressing waste during construction
  - f) an Air Quality Management Plan, addressing air quality during construction
  - g) Water Quality Impact Assessments and an Erosion and Sediment Control Plan (including water discharge considerations) in accordance with 'Managing urban stormwater, soils and construction (Landcom 2005)'.

The plans referred to above may be prepared as part of a construction environmental management plan, which is prepared and implemented under the conditions of any consent granted by future development applications.

#### **TRAFFIC, ACCESS AND CAR PARKING**

- C16. Future development application(s) shall be accompanied by a detailed assessment of parking, traffic and transport impacts within the site and to the surrounding road and pedestrian networks. The assessment is to include mitigation measures and recommendations on intersection and infrastructure upgrades where this is deemed necessary.
- C17. Future development application(s) shall be accompanied by **Green Travel Plan** that promotes the use of public transport and other sustainable modes of transport by employees.
- C18. Future development application(s) shall be accompanied by a draft **Construction Traffic Management Plan** including, but not limited to, the following:
- a) cumulative construction impacts of all projects adjacent to the site;
  - b) assessment of traffic and transport impacts during construction and how these impacts will be mitigated for any associated traffic, pedestrians, cyclists and public transport operations; and
  - c) vehicle routes, number of trucks, hours of operation, access arrangements and traffic control measures for all construction activities.

#### **NOISE IMPACT ASSESSMENT**

- C19. Future development application(s) shall include a **Noise Impact Assessment** that identifies background noise levels, noise impacts, vibration impacts, and affected sensitive receivers and includes appropriate modelling and required mitigation/management measures for construction and operation of the development. The NIA must be undertaken by a suitably qualified acoustic consultant and generally be in accordance with the provisions of the EPA's *Noise Policy for Industry, Interim Construction Noise Guideline* and *Assessing Vibration: A Technical Guideline*.
- C20. The recommendations of the *Intercontinental Hotel Sydney Noise Impact Assessment*, prepared by Acoustic Logic and dated 16 November 2016 are to be incorporated into the design detail in the future development application for the design and construction of the future addition within the building envelope.

#### **WASTE MANAGEMENT**

- C21. Future development application(s) shall include a **Waste Management Plan**.

END OF PART C

## ADVISORY NOTES

### APPEALS

AN1 The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the EP&A Act and the EP&A Regulation (as amended).

### RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

AN2 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.